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## NOTICE OF ALLOWANCE AND FEE(S) DUE

21906 7590 02/18/2010

TROP, PRUNER & HU, P.C.  
1616 S. VOSS ROAD, SUITE 750  
HOUSTON, TX 77057-2631

EXAMINER

JANVIER, JEAN D

ART UNIT

PAPER NUMBER

3688

DATE MAILED: 02/18/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/690,512

10/17/2000

Eric C. Hannah

ITL0482US (P10030)

3230

TITLE OF INVENTION: ENSURING THAT ADVERTISEMENTS ARE PLAYED

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$0	\$1510	05/18/2010

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail**

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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

21906 7590 02/18/2010

**TROP, PRUNER & HU, P.C.  
1616 S. VOSS ROAD, SUITE 750  
HOUSTON, TX 77057-2631**

## Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/690,512 10/17/2000 Eric C. Hannah IFL0482US (P10030) 3230

TITLE OF INVENTION: ENSURING THAT ADVERTISEMENTS ARE PLAYED

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nonprovisional	NO	\$1510	\$0	\$0	\$1510	05/18/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
JANVIER, JEAN D	3688	705-014000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/147; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1  
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2  
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.111. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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09/690,512	10/17/2000	Eric C. Hannah	ITL-0482US (P10030)	3230
21906	7590	02/18/2010	EXAMINER	
JANVIER, JEAN D				
ART UNIT			PAPER NUMBER	

3688

DATE MAILED: 02/18/2010

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1511 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1511 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

**Notice of Allowability****Application No.**

09/690,512

**Examiner**

JEAN JANVIER

**Applicant(s)**

HANNAH ET AL.

**Art Unit**

3688

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/28/09.
2. ☒ The allowed claim(s) is/are 21-33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/Jean Janvier/  
Primary Examiner, Art Unit 3688

02/10/10

### **In Response to the Appeal Brief**

The present decision represents the Examiner's response to the Appeal Brief, filed on September 09, 2009.

### ***DETAILED ACTION***

#### ***Claims Status***

Claims 21-33 are currently pending in the Instant Application.

#### **Reason For Allowance**

Applicant argues that the rejection of claim 29, based on Section 101, **is barred by res judicata** since the exact same rejection has already been reversed by the Board of Appeals and that decision is now final and thus, re-raising the matter is deemed inappropriate. Moreover, continues the Applicant, the M.P.E.P. does not authorize re-raising non-prior art issues after one, much less two, reversals by the Board of Appeals. Further, with respect to the art rejection of the claims using Rodriguez, Applicant submits that the rejection is null and void since the Board of Appeals had examined the Rodriguez's reference and had concluded that the reference does not anticipate the claims and that the only basis for raising new rejections is to find a new reference (M.P.E.P. § 1214.04).

Here, the Office, in response to the Applicant's Appeal Brief and Petition, seems to agree with the Applicant's remarks. Therefore, and in view of the above, the claims are allowed based on the Board's Decision in conjunction with the Applicant's response.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**USP 7,076,432 to Cheah** discloses an apparatus and a method for processing encoded digital audio data, wherein the digital audio data is encoded using one of a plurality of encoding formats. The present invention prevents encoded digital audio data that has been copied onto a particular type of data storage medium having a unique identifier, such as a compact-flash memory card, from another one of the particular type of data storage medium from being playable in an audio playback device according to the present invention. In accordance with the present invention, an encoded audio data file is encrypted using a unique identifier associated with the data storage device and a second key, an associated decoder file is encrypted using a first key, and the encrypted data and decoder files are stored onto the data storage device. During playback, a digital signal processor decrypt the audio data file in response to the second key and decrypts the decoder file in response to the first key. Advantageously, the second key is generated in response to the unique identifier and a third key. This method of encrypting and playing back the audio data files stored in the data storage device prevents an apparatus according to the present invention from playing back audio data files from a particular type of

data storage device having a unique identifier, when the audio data files have been copied from another one of the same type of data storage device (See abstract).

Further, Harrison, Ann describes in an article, “**ARIS says it's on key with digital watermark**”, that the recording industry will first adopt a watermark standard for music delivered via an analog signal and then work with software vendors to develop a watermark technology for the digital domain. Watermarks on analog music played over the radio would help track artists' royalties. Special receivers could record broadcast and allow artist rights organizations to compile music play list statistics for royalty collection. The next generation of radio receivers will also be able to display text from embedded watermark information. This would allow record companies to encode each track of music with information such as the name of the song, artist, album, record label, liner notes and lyrics. Since consumers are more likely to purchase music they can identify by name, record companies hope that watermarks will help boost record sales.

Additionally, a BALTIMORE MORNING SUN ( BS ) article, **ADD A TOUCH OF CLASS TO PRINTED DOCUMENTS**, talked about a simulated watermarking technique- Atmospheres is a collection of images that can be superimposed over an entire page or any part of a page. The images can add style, even a touch of class, to your everyday printed documents. A clever utility program appropriately named "Watermark" makes it all work. There are five collections: Patterns, Geometrics, Classics, CityScapes and Habitats are fairly self-descriptive and contain 15 different scenes each. The Watermark program allows you to print any picture as a transparent image. Atmospheres' images blend unobtrusively into the background. Using the

"gray-scale" capability of most printers, you can choose how light or dark you want the image to appear on the page.

3Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Ms. Lynda Jasmin, can be reached at (571)272-6782

Non-Official-571-273-6719.

Official Draft : 571-273-8300

12/31/09

/Jean Janvier/

Primary Examiner, Art Unit 3688



Application/Control Number: 09/690,512  
Art Unit: 3688

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